

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EMPIRE MERCHANTS, LLC,

Plaintiff,

-against-

CHARLES MERINOFF and

GREGORY BAIRD,

Defendants

No. 16-CV-9590 (JMF)

CHARLES MERINOFF and

GREGORY BAIRD,

Counterclaim-Plaintiffs,

-against-

EMPIRE MERCHANTS, LLC,

Counterclaim-Defendant.

NOTICE OF MOTION

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law and all prior pleadings and proceedings had herein, and such argument as may be received by this Court at the time of a hearing, Defendants Charles Merinoff and Gregory Baird (together “**Defendants**”), by and through their undersigned counsel, will move this Court before the Honorable Jesse M. Furman, United States District Judge, in Courtroom 1105 of the Thurgood Marshall United States Courthouse, 40 Foley Square, New York, New York 10007, on a date to be determined by the Court, for an order:

- 1) requiring Plaintiff Empire Merchants, LLC (“**Empire**”) to immediately advance to Defendants the sum of \$1,406,811 for their attorneys’ fees and expenses incurred in

connection with the action captioned *Empire Merchants, LLC v. Reliable Churchill LLLP*, No. 16-CV-05226(ARR) (E.D.N.Y.) between September 20, 2016 and December 9, 2016;

- 2) awarding Defendants' their fees and expenses incurred in successfully pursuing advancement, pursuant to Delaware law;
- 3) and for such other and further relief as the Court may deem just and proper.

Pursuant to the Court's Order dated January 19, 2018 (ECF 77), Empire's answering papers are to be served and filed by February 20, 2018, and Defendants' reply papers are to be served and filed by February 27, 2018.

Dated: New York, New York
February 5, 2018

BOIES SCHILLER FLEXNER LLP

/s/ Sean F. O'Shea

Sean F. O'Shea
575 Lexington Avenue
New York, New York 10022
Tel: (212) 446-2300
Fax: (212) 446-2350
soshea@bsfllp.com

Helen M. Maher
333 Main Street
Armonk, New York 10504
Tel: (914) 749-8200
Fax: (914) 749-8302
hmaher@bsfllp.com

*Attorneys for Defendants Charles Merinoff and
Gregory Baird*